1 2 3 4 5 UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WASHINGTON 6 7 UNITED STATES OF AMERICA, NO: 13-CR-14-RMP-1 8 Plaintiff, 9 v. ORDER DENYING DEFENDANT 10 LOUIS DANIEL SMITH, also known SMITH'S MOTION TO DISMISS as Daniel Smith, also known as Daniel 11 Votino; KARIS DELONG, also known as Karis Copper; TAMMY OLSON; and CHRIS OLSON. 12 Defendants. 13 14 15 16 17 18 19 20

COUNT 1 OF THE INDICTMENT FOR LACK OF FEDERAL CRIMINAL JURISDICTION **BEFORE THE COURT** is Defendant Louis Daniel Smith's "Motion to Dismiss Count 1 of the Indictment for Lack of Federal Criminal Jurisdiction," ECF No. 322. The motion was heard without oral argument. Defendant Smith is appearing in this matter pro se. 1 Christopher Parisi has appeared on behalf of the ¹ Defendant Smith's motions are liberally construed because he is appearing *pro* se. See, e.g., United States v. Johnson, 988 F.2d 941, 943 (9th Cir. 1993). ORDER DENYING MOTION TO DISMISS COUNT 1 FOR LACK OF FEDERAL CRIMINAL JURISDICTION ~ 1

Government. The Court has considered the briefing and the file, and is fully informed.

Count One of the Indictment in this case charges Defendants Smith, Karis Delong, Tammy Olson, and Chris Olson with conspiracy to commit an offense against the United States or to defraud the United States, in violation of 18 U.S.C. § 371. ECF No. 1. Defendant Smith appears to contend that Congress lacked legislative jurisdiction to criminalize a conspiracy under this statute.

The United States District Courts have been vested with original and exclusive jurisdiction over all offenses against the laws of the United States. 18 U.S.C. § 3231; see also United States v. Sitton, 968 F.2d 947, 953 (9th Cir. 1992), abrogated on other grounds by Koon v. United States, 518 U.S. 81, 96-100 (1996) ("Federal courts have exclusive jurisdiction of offenses against the laws of the United States under 18 U.S.C. § 3231; the permission of the states is not a prerequisite to exercise of that jurisdiction.").

Venue is proper in the Eastern District of Washington because "[v]enue for a conspiracy charge is appropriate in any district where an overt act committed in the course of the conspiracy occurred." *See United States v. Angotti*, 105 F.3d 539, 545 (9th Cir. 1997) (quoting *United States v. Corona*, 34 F.3d 876, 879 (9th Cir. 1994)). The Indictment alleges several overt acts occurring within the Eastern District of Washington. ECF No. 1.

ORDER DENYING MOTION TO DISMISS COUNT 1 FOR LACK OF FEDERAL CRIMINAL JURISDICTION ~ 2

1	Regarding legislative jurisdiction, Congress validly exercised its authority
2	under the Necessary and Proper Clause in enacting 18 U.S.C. § 371. The
3	Necessary and Proper Clause provides that "The Congress shall have Power
4	[t]o make all Laws which shall be necessary and proper for carrying into Execution
5	the foregoing Powers, and all other Powers vested by this Constitution in the
6	Government of the United States, or in any Department or Officer thereof." U.S.
7	Const. art. I, § 8, cl. 18. Defendant Smith does not contest the legislative
8	jurisdiction for the underlying offenses the Defendants are accused of conspiring to
9	commit, such as delivering into interstate commerce misbranded drugs, in violation
10	of 18 U.S.C. § 331(a).
11	Accordingly, IT IS HEREBY ORDERED that Defendant Louis Daniel
12	Smith's "Motion to Dismiss Count 1 of the Indictment for Lack of Federal
13	Criminal Jurisdiction," ECF No. 322, is DENIED.
14	
	The District Court Clerk is directed to enter this Order and to provide copies
15	The District Court Clerk is directed to enter this Order and to provide copies to counsel and <i>pro se</i> Defendant Louis Daniel Smith.
15 16	
	to counsel and <i>pro se</i> Defendant Louis Daniel Smith. DATED this 27 th day of August 2014.
16	to counsel and <i>pro se</i> Defendant Louis Daniel Smith. DATED this 27 th day of August 2014. S/Rosanna Malouf Peterson ROSANNA MALOUF PETERSON
16 17	to counsel and <i>pro se</i> Defendant Louis Daniel Smith. DATED this 27 th day of August 2014. **Solution** **Rosanna Malouf Peterson**
16 17 18	to counsel and <i>pro se</i> Defendant Louis Daniel Smith. DATED this 27 th day of August 2014. S/Rosanna Malouf Peterson ROSANNA MALOUF PETERSON

ORDER DENYING MOTION TO DISMISS COUNT 1 FOR LACK OF FEDERAL CRIMINAL JURISDICTION ~ 3